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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/935,865 09/23/97 DAY

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MM91/0116

EXAMINER

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ART UNIT

PAPER NUMBER

2861

DATE MAILED:

01/16/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**Application No.  
**08/935,865**Applicant(s)  
**Day et al.**Examiner  
**Michael Nghiem**Group Art Unit  
**2861**☒ Responsive to communication(s) filed on Feb 28, 2000 and Nov 6, 2000☒ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**☒ Claim(s) 1-39 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☒ Claim(s) 37-39 is/are allowed.☒ Claim(s) 1, 2, 7-10, 21, 23-27, and 31 is/are rejected.☒ Claim(s) 3-6, 11-20, 22, 28-30, and 32-36 is/are objected to.☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.**Application Papers**☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.☒ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119**☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been☒ received.☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)**☐ Notice of References Cited, PTO-892☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_☐ Interview Summary, PTO-413☐ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### **DETAILED ACTION**

The amendments filed on February 28, 2000 has been acknowledged.

#### ***Continued Prosecution Application***

1. The request filed on November 6, 2000 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/935,865 is acceptable and a CPA has been established. An action on the CPA follows.

#### ***Substitute Specification***

2. A marked-up copy showing the amendments to be made via the substitute specification relative to the specification at the time the substitute specification is filed has not been received.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 25 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 25, is the image receiving tape and the ink ribbon received in the first cassette and second cassette **respectively**?

The remaining claims are also rejected under 35 U.S.C. 112, second paragraph, for being dependent upon a rejected base claim.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 7-10, 21, and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over

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Suzaki (UK 2-194-487 A) in view of Minowa (5,183,333).

Suzaki discloses a thermal printing apparatus comprising:

- \* a thermal print head (#320, Fig. 18) for printing an image on said image receiving tape, said print head having a first mode of operation and a second mode of operation (Abstract)

- \* receiving means (combination of platen roller 322 and frame 315 having engaging notches 316; fig. 18) for receiving in the first mode of operation a supply of image receiving tape and a supply of ink ribbon (#311, Fig. 18) for providing an image on said image receiving tape, and in the second mode of operation a supply of thermally sensitive image receiving tape (heat sensitive paper discussed at p.6, 11113)

- \* driving means for driving said ink ribbon (page 5, 115 8-64)

- \* control means (page 8, 1144) for controlling said thermal print head

- \* detecting means (page 8, 1142) for detecting if an ink ribbon is present or absent in said receiving means and for providing a signal (page 8, claim 2) to said control means indicative of the presence or absence of the ink ribbon, said control means being arranged to control said thermal print head to operate in said first mode of operation when an ink ribbon is present and said second mode of operation when no ink ribbon is present (Abstract) , wherein said detecting means(#319, Fig. 18) is arranged to detect, when said driving means is activated (page 5, 1158-64), a characteristic indicative of movement of said ink ribbon to determine if an ink ribbon is present,

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\* said detecting means is arranged to determine if ink ribbon is present along a portion of an ink ribbon path (#3 19, Fig. 18),

\* said detecting means comprises a first emitting element (Page 7, 1154-5 8) and a second detecting element (Page 7,1158-63), wherein the first emitting element is arranged to emit a signal which interacts with said ink ribbon when present and said detecting element, depending on whether or not ink ribbon is present, either receives or does not receive the signal emitted by the emitting element

\* driving means (page 5, 115 8 -64) are provided for driving said ink ribbon and the detecting means (#319, Fig.18) is arranged to detect, when said driving means is activated, a characteristic indicative of movement of said ink ribbon to thereby determine if an ink ribbon is present (Page 5, 115 8-64)

\* said ink ribbon is mounted on a rotatable support member (93, Fig.2)

\* said housing is provided with an opening (#319, Fig. 18) through which said markings are detectable

However, Suzuki does not teach the following:

\* cutting means for separating a printed label from the supply of image receiving tape

Meanwhile, Minowa teaches the following:

\* a tape cutter is preferably positioned near tape exit 16 (col. 5, 116-7)

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Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention was made to modify the invention taught by Suzuki to incorporate the teaching of having a cutter means for separating a printed label from the supply of image receiving tape.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weber (US 5,809,358).

Weber teaches the claimed invention including:

\* a cassette (111) comprising a housing (Fig. 6a) in which a reel (127) holding a supply of tape is arranged, said reel being rotatable with respect to said housing and having a plurality of markings (133-147) thereon, said housing being arranged so that said markings are detectable by detecting means (151) external to said cassette to provide information relating to rotation of said reel (suggested by Abstract, lines 15-20, and rotation sensor 36, Fig. 4).

#### *Allowable Subject Matter*

5. Claims 3-6, 11-20, 22, 28-30, and 32-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 37-39 are allowed.

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*Response to Arguments*

7. Applicant's arguments filed on February 28, 2000 have been fully considered but they are not persuasive.

With respect to the 35 USC 103 rejections, applicants argue that the cited references do not teach a detecting means which detect the presence or absence of the ink ribbon, and a control means which controls the print head as a function of whether a first mode or a second mode of operation is required, which requirement is resolved based upon what the detecting means detects.

Examiner's position is that Suzuki teaches a detecting means which detect the presence or absence of the ink ribbon (Abstract, line 3), and a control means which controls the print head as a function of whether a first mode or a second mode of operation is required, which requirement is resolved based upon what the detecting means detects (Abstract, line 4). The control means is an inherent feature of the "switching device"(Abstract, line 4).

*Conclusion*

8. All claims are drawn to the same invention claimed in the parent application prior to the filing of this Continued Prosecution Application under 37 CFR 1.53(d) and could have been finally rejected on the grounds and art of record in the next Office action. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing under 37

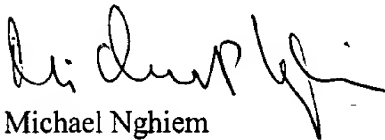


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CFR 1.53(d). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nghiem whose telephone number is (703) 306-3445. An inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 308-0956.



Michael Nghiem

January 12, 2001



**N. Le**  
**Supervisory Patent Examiner**  
**Technology Center 2800**